

### REMARKS

Claims 1 to 20 remain in this application. Claims 21 to 25 are new.

Applicant appreciates the thoroughness of the Examiner's office action. Applicant has endeavored to place the instant application in condition for allowance in light of the amendments above and the remarks below.

#### Amendments to the Claims

Claims 1, 10, and 17 are currently amended. Support for the amendments to claims 1, 10, and 17 is found, *inter alia*, on page 5, lines 1 through 25. The claims have been amended to clarify the types of super-absorbent polymer particles useful in the article of the present invention.

New claims 21 to 25 are fully supported in the specification on page 5, lines 1 through 25.

#### Section 112 Issues

Claims 6 to 9 are rejected under 35 U.S.C. §112, second paragraph, as being allegedly indefinite for failing to particularly point out and distinctly claim the subject matter that applicant regards as the invention.

Claims 6 and 7 are considered indefinite because the meaning of "in liquid communication" appears to be unclear. Some latitude in the manner of expression and the aptness of terms should be permitted even though the claim language is not as precise as the examiner might desire. *MPEP §2173.02*. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (a) the content of the particular application disclosure; (b) the teachings of the prior art; and (c) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made. *MPEP §2173.02*. Applicant respectfully submits that one of ordinary level of skill in the art would know and understand the term "in liquid communication" in given the content of the application disclosure, the teachings of the prior art, and the claim interpretation given by one having ordinary skill in the art at the time the invention was made. The Examiner is encouraged to perform a simple text

search of patents in the art of absorbent articles. Such a search will undoubtedly show that the term "in liquid communication" is widely used and understood by those having ordinary skill in the art to show that there is liquid exchanged or transferred between elements.

Claims 8 and 9 are considered indefinite because it is unclear what constitutes "semi-permeable". Only if the scope of the term is not understood when read in light of the specification should a rejection be proper. *See MPEP §2173.05(b)*. Applicants respectfully submit that the term is understood when read by one of ordinary skill in the art, in view of the prior art. The plain meaning of "semi-permeable" is used in the application disclosure and no special meaning is afforded the term. Thus, the notice function of §112, second paragraph, is well served.

Applicant respectfully requests that the rejection under §112, second paragraph be withdrawn. However, should the examiner repeat the §112, second paragraph, rejection, Applicant respectfully requests that the Examiner clearly state on the record or take official notice thereover, on what one of ordinary skill in the art would not understand or be apprised of in the scope of the terms referred to herein.

#### Section 102 Issues

Claims 1 to 3, 6 to 12, and 15 to 18 are rejected under 35 U.S.C. §102(b) as being allegedly anticipated by United States Patent No. 6,015,608 to Koslow (the Koslow patent). A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *MPEP §2131*.

Applicants have amended independent claims 1, 10, and 17 such that every element of the present invention as set forth in the claim is not found in the Koslow patent. Koslow does not disclose super-absorbent polymer (SAP) particles that are capable of substantially spontaneously forming a three-dimensional array of elongated channels within the composite upon contact with

a liquid wherein the three-dimensional array of elongated channels promotes liquid acquisition prior to liquid absorption by the SAP particles. Only those SAP particles capable of forming the three-dimensional array of elongated channels within the composite upon contact with a liquid are useful in the composite of the present invention. Not all SAP particles will form the three-dimensional array of elongated channels when used to make the composite even if manufactured according to the disclosed process. The Koslow patent does not disclose SAP particles capable of forming the three-dimensional array of elongated channels used in the present invention. In fact, the SAP particles disclosed in the Koslow patent do not form three-dimensional elongated channels when made into a composite. In FIG. 8, the performance of the composite of the present invention, delineated as "WORMHOLE", is clearly superior to that of a composite made with prior art SAP particles, delineated as "SAP", proving that the composite made with prior art SAP particles do not exhibit this enhanced liquid acquisition and absorption property when brought into contact with a liquid.

In light of the amendments to independent claims 1, 10, and 17, and the remarks above, claims 1 to 3, 6 to 12, and 15 to 18, are not anticipated by the Koslow patent, and contain allowable subject matter. Therefore, Applicant respectfully requests withdrawal of the rejection and allowance of claims 1 to 3, 6 to 12, and 15 to 18.

Claims 4 to 5, 13, 14, 19, and 20 are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over the Koslow patent. Evidence of unobvious or unexpected advantageous properties, ... can rebut *prima facie* obviousness. *MPEP §716.02(a)*.

Applicant has presented evidence in the application disclosure, specifically FIG. 8, showing that SAP particles capable of forming a three-dimensional array of elongated channels in the composite of the present invention, that are 75% thinner than the prior art absorbent structure

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(DEPENDS® incontinence product) and require 50% less mass, outperform the prior art absorbent structure, the DEPENDS® incontinence product. It is unexpected that the composite of the present invention having a dry thickness of less than 2mm would be able to absorb more liquid than the prior art absorbent structure, and having less cumulative overflow as shown in FIG. 8.

Furthermore, amendments to claims 1, 10, and 17 from which claims 4 to 5, 13, 14, 19, and 20 depend, clarifying the specific types of SAP particles in the composite as those SAP particles capable of forming a three-dimensional array of elongated channels within the composite upon contact with a liquid, that is not taught or suggested in the Koslow patent.

In light of the evidence presented in FIG. 8, Applicant respectfully submits that claims 4 to 5, 13, 14, 19, and 20 are not *prima facie* obvious. Therefore, Applicants respectfully requests withdrawal of the rejection and allowance of claims 4 to 5, 13, 14, 19, and 20.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Should any issues arise that may be resolved by telephone, the Examiner is encouraged to call the Applicant's representative at 203.799.9000, extension 277. Please credit or debit any over- or under-payment to Deposit Account No. 502371.

Respectfully submitted,



Shirley S. Ma  
Registration No. 44,216

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KX Industries, L.P.  
269 S. Lambert Road  
Orange, CT 06477  
203-799-9000 x277

#### CERTIFICATE OF MAILING

I hereby certify that the foregoing document is being deposited with the U.S. Postal Service as first class mail addressed to the Assistant Commissioner of Patents, U.S. Patent & Trademark Office, Washington, DC 20231.

Shirley S. Ma  
Name

14 April 2003  
Date

  
Signature